

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Sacramento, California

October 28, 2015 at 10:00 a.m.

1. [15-25904](#)-B-13 JOEL PEARSON MOTION TO DISMISS CASE
JPJ-2 James L. Keenan 10-8-15 [[20](#)]

Tentative Ruling: Because less than 28 days' notice of the hearing was given, the Trustee's Motion to Dismiss is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further.

The court's decision is to dismiss the case.

First, the Debtor is delinquent to the Trustee in the amount of \$600.00, which represents approximately two plan payments. By the time this motion is heard, an additional plan payment in the amount of \$300.00 will also be due. The Debtor has not made any plan payments since the petition was filed on July 27, 2015.

Second, the Debtor did not provide the Trustee with a copy of this tax return for the most recent tax year a return was filed. The Debtor has not complied with 11 U.S.C. § 521(e)(2)(A)(1).

Third, the Debtor has not submitted proof of his social security number to the Trustee at the 341 meeting of creditors as required pursuant to Fed. R. Bankr. P. 4002(b)(1)(B). The Debtor has not cooperated with the Trustee as required pursuant to 11 U.S.C. § 521(a)(3).

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

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2. [15-26307](#)-B-13 ANTONIO BROWN AND LAKIYA ORDER TO SHOW CAUSE - FAILURE
 LOWE-BROWN TO PAY FEES
 Scott D. Shumaker 9-14-15 [[25](#)]

Tentative Ruling: The Order to Show Cause will be discharged and the case will remain pending but the court will modify the terms of its order permitting the Debtors to pay the filing fee in installments.

The court granted the debtor permission to pay the filing fee in installments. The Debtors failed to pay the \$79.00 installment when due on September 9, 2015. While the delinquent installment was paid on September 17, 2015, the fact remains the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The court shall enter an appropriate civil minute order consistent with this ruling.

3. [15-27008](#)-B-13 ANDREW SHELTON
Mikalah R. Liviakis

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
10-9-15 [[19](#)]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law.

The court's tentative decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtor's failure to pay \$79.00 due on October 5, 2015. The court's docket reflects that the default has not been cured.

The court shall enter an appropriate civil minute order consistent with this ruling.

4. [15-25709](#)-B-13 MICHAEL/JESSICA SHELTON ORDER TO SHOW CAUSE - FAILURE
Michael O'Dowd Hays TO PAY FEES
9-21-15 [[25](#)]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law.

The court's tentative decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtors' failure to pay \$77.00 due on September 15, 2015. The court's docket reflects that the default has not been cured.

The court shall enter an appropriate civil minute order consistent with this ruling.

Tentative Ruling: The Trustee's Motion to Convert Case to a Chapter 7 Proceeding or in the Alternative Dismiss Case has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. Cf. *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's decision is to not convert this Chapter 13 case to a Chapter 7.

This motion to convert the Chapter 13 bankruptcy case has been filed by Jan Johnson ("Movant"), Chapter 13 Trustee. Movant asserts that the case should be converted because the Debtor has failed to take further action to confirm a plan, thus causing unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1). Additionally, Trustee asserts that there is non-exempt property in the estate, thus making conversion rather than dismissal of the case to be in the best interest of creditors and the estate pursuant to 11 U.S.C. § 1303(c).

In response, the Debtor asserts that it has not failed to prosecute this case. The Debtor states that the Trustee's Objection to Confirmation heard on September 9, 2015, was denied by the court as moot because the Debtor had filed a new plan on August 14, 2015. Dkt. 29. The confirmation hearing on this first modified plan is set for November 18, 2015. The first modified plan is identical to the earlier plan filed May 21, 2015, with the addition of original signatures by the Debtor and Debtor's attorney that were not included in the earlier plan.

Discussion

Questions of conversion or dismissal must be dealt with a thorough, two-step analysis: "[f]irst, it must be determined that there is 'cause' to act[;] [s]econd, once a determination of 'cause' has been made, a choice must be made between conversion and dismissal based on the 'best interests of the creditors and the estate.'" *Nelson v. Meyer (In re Nelson)*, 343 B.R. 671, 675 (B.A.P. 9th Cir. 2006) (citing *Ho v. Dowell (In re Ho)*, 274 B.R. 867, 877 (B.A.P. 9th Cir. 2002)).

The Bankruptcy Code Provides:

[O]n request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause....

11 U.S.C. § 1307(c). The court engages in a "totality-of circumstances" test, weighing facts on a case by case basis in determining whether cause exists, and if so, whether conversion or dismissal is proper. *In re Love*, 957 F.2d 1350 (7th Cir. 1992). Bad faith is not one of the enumerated grounds under 11 U.S.C. § 1307, but it is "cause" for dismissal or conversion. *Nady v. DeFrantz (In re DeFrantz)*, 454 B.R. 108, 113 FN.4, (B.A.P. 9th Cir. 2011), citing *Leavitt v. Soto (In re Leavitt)*, 171 F.3d 1219, 1224 (9th Cir. 1999).

Cause does not exist to convert this case pursuant to 11 U.S.C. § 1307(c) since the Debtor has not failed to prosecute this case. The Debtor filed a first modified plan on August 14, 2015, that is scheduled to be heard on November 18, 2015. The motion is denied without prejudice and the case is not dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

6. [15-25223](#)-B-13 FARAHNAZ MAKHMALBAF
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
10-5-15 [[55](#)]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law.

The court's tentative decision is to sustain the Order to Show Cause and order the case not dismissed.

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due on September 28, 2015. The court's docket reflects that the default has not been cured. However, the case will not be dismissed because on August 31, 2015, the U.S. Trustee filed a Complaint for Imposition of Two Year Injunction Against Filing Another Bankruptcy pursuant to 11 U.S.C. §§ 349 and 195, Adversary Proceeding No. 15-2178

The court shall enter an appropriate civil minute order consistent with this ruling.

7. [15-26237](#)-B-13 CONNIE PENDELTON ORDER TO SHOW CAUSE - FAILURE
Thru #8 Pro Se TO PAY FEES
9-9-15 [[18](#)]

Final Ruling: No appearance at the October 28, 2015, hearing is required.

The Order to Show Cause was served by the Clerk of the Court on the Debtor, Trustee, and other such other parties in interest as stated on the Certificate of Service on September 9, 2015.

The court's decision is to discharge the Order to Show Cause. However, the case shall be dismissed for reasons stated in Item #8.

The Order to Show Cause was issued due to Debtor's failure to pay \$79.00 due on September 4, 2015. The court's docket reflects that the default has been cured, the Debtor having paid \$156.00 on September 17, 2015.

The court shall enter an appropriate civil minute order consistent with this ruling.

8. [15-26237](#)-B-13 CONNIE PENDELTON MOTION TO DISMISS CASE
JPJ-2 Pro Se 10-6-15 [[27](#)]

Tentative Ruling: Because less than 28 days' notice of the hearing was given, the Trustee's Motion to Dismiss is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further.

The court's decision is to dismiss the case.

First, the Debtor has not filed a certificate of completion from an approved nonprofit budget and credit counseling agency. The Debtor has not complied with 11 U.S.C. § 521(b)(1) and is not eligible for relief under the United States Bankruptcy Code pursuant to 11 U.S.C. § 109(H).

Second, the Debtor is delinquent to the Trustee in the amount of \$1,619.00, which represents approximately 1 plan payment. By the time this motion is heard, an additional plan payment in the amount of \$1,619.00 will also be due. The Debtor has not made any plan payments since the petition was filed on August 5, 2015.

Third, the Debtor has not provided the Trustee with a copy of her tax return for the most recent tax year a return was filed. The Debtor has not complied with 11 U.S.C. § 521(e)(2)(A)(1).

Fourth, the Debtor has not provided the Trustee with copies of her payment advices or other evidence of income received within the 60-day period prior to the filing of the petition. The Debtor has not complied with 11 U.S.C. § 521(a)(1)(B)(iv).

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

Tentative Ruling: Because less than 28 days' notice of the hearing was given, the Trustee's Motion to Dismiss is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further.

The court's decision is to dismiss the case.

First, although the Debtor did not appear at the first meeting of creditors set for September 17, 2015, the Debtor did appear at the continued meeting held on October 15, 2015 as required pursuant to 11 U.S.C. § 343.

Second, the Debtor is delinquent to the Trustee in the amount of \$350.00, which represents approximately 2 plan payments. By the time this motion is heard, an additional plan payment in the amount of \$175.00 will also be due. The Debtor has not made any plan payments since the petition was filed on July 23, 2015.

Third, the Debtor has not provided the Trustee with requested copies of certain items related to the ownership and operation of a business including, but not limited to, a completed business examination checklist, bank account statements of the 6-month period prior to the filing of the petition, proof of all required insurance, and proof of required licenses and permits. The Debtor has not complied with 11 U.S.C. § 521.

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

10. [15-25461](#)-B-13 LONNIE SMITH
Michael O'Dowd Hays

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
9-14-15 [[32](#)]

DEBTOR DISMISSED: 9/23/2015

Final Ruling: No appearance at the October 28, 2015 hearing is required.

The case having previously been dismissed, the Motion is dismissed as moot.

11. [15-25761](#)-B-13 FRANCISCO QUEMA
Mikalah R. Liviakis

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
9-24-15 [[26](#)]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law.

The court's tentative decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due on September 21, 2015. The court's docket reflects that the default has not been cured.

The court shall enter an appropriate civil minute order consistent with this ruling.

Final Ruling: The Trustee's Motion to Dismiss Case has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's decision is to dismiss the case.

The Chapter 13 Trustee moves to dismiss the case on the ground that the confirmed plan will take a total of 90 months to complete, which results in a commitment period that exceeds the permissible limit imposed by 11 U.S.C. § 1325(b)(4) and which is 30 months longer than the proposed commitment period of 60 months. The reason for this extended period is because the plan must account for the secured claim of Pacific Service Credit Union in the amount of \$4,925.75 and the total amount of timely filed and allowed general unsecured claims of \$30,045.17.

On October 22, 2015, the Debtor filed a non-opposition to the Trustee's motion, withdrew its earlier response filed October 15, 2015, and requested that the court dismiss the case.

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

13. [15-26967](#)-B-13 JEREMIAH/SAMANTHA BAGULA
Michael O'Dowd Hays

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
10-7-15 [[20](#)]

Tentative Ruling: The Order to Show Cause will be discharged and the case will remain pending but the court will modify the terms of its order permitting the Debtors to pay the filing fee in installments.

The court granted the debtor permission to pay the filing fee in installments. The Debtors failed to pay the \$79.00 installment when due on October 2, 2015. While the delinquent installment was paid on October 22, 2015, the fact remains the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The court shall enter an appropriate civil minute order consistent with this ruling.

14. [15-24470](#)-B-13 DONNA VANDERHORST
Richard L. Jare

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
10-5-15 [[86](#)]

Final Ruling: No appearance at the October 28, 2015, hearing is required.

The Order to Show Cause was served by the Clerk of the Court on the Debtor, Trustee, and other parties in interest as stated on the Certificate of Service on October 5, 2015.

The court's decision is to discharge the Order to Show Cause.

The Order to Show Cause was issued due to Debtor's failure to pay the final installment of \$77.00 due September 30, 2015. The court's docket reflects that the default has been cured, the Debtor having paid \$77.00 on October 26, 2015.

The court shall enter an appropriate civil minute order consistent with this ruling.

15. [15-24871](#)-B-13 EDUARD BANADA
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
9-21-15 [[41](#)]

DEBTOR DISMISSED: 9/23/2015

Final Ruling: No appearance at the October 28, 2015 hearing is required.

The case having previously been dismissed, the Motion is dismissed as moot.

16. [14-20172](#)-B-13 GREGORY BRUTUS
JPJ-2 Mark A. Wolff

MOTION TO DISMISS CASE
10-13-15 [[140](#)]

Tentative Ruling: Because less than 28 days' notice of the hearing was given, the Trustee's Motion to Dismiss is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further.

The court's decision is to dismiss the case.

The Debtor is delinquent to the Trustee in the amount of \$700.00, which represents approximately 2 plan payments under the terms of the modified plan filed June 24, 2015, which was granted on August 12, 2015. By the time this motion is heard, an additional plan payment in the amount of \$350.00 will also be due.

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

17. [15-25373](#)-B-13 LISA ILAGA ORDER TO SHOW CAUSE - FAILURE
Thru #18 Mikalah R. Liviakis TO PAY FEES
10-9-15 [[57](#)]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law.

The court's tentative decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtor's failure to pay \$73.00 due on October 5, 2015. The court's docket reflects that the default has not been cured.

The court shall enter an appropriate civil minute order consistent with this ruling.

18. [15-25373](#)-B-13 LISA ILAGA ORDER TO SHOW CAUSE - FAILURE
Mikalah R. Liviakis TO PAY FEES
9-9-15 [[46](#)]

Final Ruling: No appearance at the October 28, 2015, hearing is required.

The Order to Show Cause was served by the Clerk of the Court on the Debtor, Trustee, and other parties in interest as stated on the Certificate of Service on September 9, 2015.

The court's tentative decision is to discharge the Order to Show Cause. However, subject to Item #17, the court will order the case dismissed.

The Order to Show Cause was issued due to Debtor's failure to pay \$76.00 due on September 4, 2015. The court's docket reflects that the default has been cured, the Debtor having paid \$80.00 on September 17, 2015. Nonetheless, the case is dismissed subject to Item #17 for Debtor's failure to pay \$73.00 due on October 5, 2015.

The court shall enter an appropriate civil minute order consistent with this ruling.

19. [15-26175](#)-B-13 RICHARD CONRAD
Michael O'Dowd Hays

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
10-7-15 [[23](#)]

Tentative Ruling: The Order to Show Cause will be discharged and the case will remain pending but the court will modify the terms of its order permitting the Debtor to pay the filing fee in installments.

The court granted the debtor permission to pay the filing fee in installments. The Debtor failed to pay the \$79.00 installment when due on October 2, 2015. While the delinquent installment was paid on October 19, 2015, the fact remains the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The court shall enter an appropriate civil minute order consistent with this ruling.

20. [14-27787](#)-B-13 RUBEN/LINDA RODRIGUEZ
JPJ-1 Michael David Croddy

MOTION TO CONVERT CASE FROM
CHAPTER 13 TO CHAPTER 7 AND/OR
MOTION TO DISMISS CASE
9-29-15 [[44](#)]

Tentative Ruling: The Trustee's Motion to Convert Case to a Chapter 7 Proceeding or in the Alternative Dismiss Case has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. Cf. *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's decision is to not convert this Chapter 13 case to a Chapter 7.

This motion to convert the Chapter 13 bankruptcy case has been filed by Jan Johnson ("Movant"), Chapter 13 Trustee. Movant asserts that the case should be converted because the Debtors are delinquent to the Trustee in the amount of \$8,426.00, which represents approximately 2 partial plan payments. By the time this motion is heard, an additional plan payment in the amount of \$5,199.00 will also be due. Trustee states that this is cause to dismiss the case pursuant to 11 U.S.C. § 1307(c)(1). Additionally, Trustee asserts that there is non-exempt property in the estate, thus making conversion rather than dismissal of the case to be in the best interest of creditors and the estate pursuant to 11 U.S.C. § 1303(c).

In response, Debtors state that they have filed a first modified plan on October 14, 2015, that accounts for the delinquency in payments. Debtors state the delinquency was due to the fact that they did not anticipate that the sale of "Emma's Taco House, LLC," which the court approved to be sold on April 22, 2015, would require the Debtors to pay \$11,000.00 to close the deal. The Debtors state that they had to borrow \$11,000.00 on short notice to close escrow. Additionally, the Debtors assert that the State Board of Equalization has not released the last \$18,000.00 held in escrow, which is to be paid to the Trustee. According to the Debtors, the State Board of Equalization will not release the funds or the ABC license until the new owners finished remodeling the property.

Discussion

Questions of conversion or dismissal must be dealt with a thorough, two-step analysis: "[f]irst, it must be determined that there is 'cause' to act[;] [s]econd, once a determination of 'cause' has been made, a choice must be made between conversion and dismissal based on the 'best interests of the creditors and the estate.'" *Nelson v. Meyer (In re Nelson)*, 343 B.R. 671, 675 (B.A.P. 9th Cir. 2006) (citing *Ho v. Dowell (In re Ho)*, 274 B.R. 867, 877 (B.A.P. 9th Cir. 2002)).

The Bankruptcy Code Provides:

[O]n request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause....

11 U.S.C. § 1307(c). The court engages in a "totality-of circumstances" test, weighing facts on a case by case basis in determining whether cause exists, and if so, whether conversion or dismissal is proper. *In re Love*, 957 F.2d 1350 (7th Cir. 1992). Bad faith is not one of the enumerated grounds under 11 U.S.C. § 1307, but it is "cause" for dismissal or conversion. *Nady v. DeFrantz (In re DeFrantz)*, 454 B.R. 108, 113 FN.4, (B.A.P. 9th Cir. 2011), citing *Leavitt v. Soto (In re Leavitt)*, 171 F.3d 1219, 1224 (9th Cir. 1999).

Cause does not exist to convert this case pursuant to 11 U.S.C. § 1307(c) since the

Debtors have filed a first modified plan on October 14, 2015, that accounts for the delinquency in payments. The confirmation hearing of this plan is scheduled for December 2, 2015. The motion is denied without prejudice and the case is not dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

Tentative Ruling: Because less than 28 days' notice of the hearing was given, the Trustee's Motion to Dismiss is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtors, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further.

The court's decision is to dismiss the case.

First, the Debtors did not appear at the first meeting of creditors set for September 3, 2015, as required pursuant to 11 U.S.C. § 343.

Second, Debtors are delinquent to the Trustee in the amount of \$8,212.820, which represents approximately 2 plan payments. By the time this motion is heard, an additional plan payment in the amount of \$4,106.41 will also be due. The Debtors have not made any plan payments since the petition was filed on July 16, 2015. There is cause to dismiss this cause pursuant to 11 U.S.C. §§ 1307(c)(1) and (c)(4).

Third, to date the Debtors have not provided the Trustee with a Class 1 Checklist and Authorization to Release Information. The Debtors have not complied with 11 U.S.C. § 521(a)(3) and Local Bankr. R. 3015-1(c)(3).

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

22. [15-25590](#)-B-13 ERINN HAMILTON
Mikalah R. Liviakis

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
9-17-15 [[20](#)]

Tentative Ruling: The Order to Show Cause will be discharged and the case will remain pending but the court will modify the terms of its order permitting the Debtor to pay the filing fee in installments.

The court granted the debtor permission to pay the filing fee in installments. The Debtor failed to pay the \$77.00 installment when due on September 14, 2015. While \$156.00 was paid on September 23, 2015, and \$80.00 was paid on October 16, 2015, the fact remains the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The court shall enter an appropriate civil minute order consistent with this ruling.

23. [15-26390](#)-B-13 ADDISU GIRMA
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
9-16-15 [[20](#)]

DEBTOR DISMISSED: 9/29/2015

Final Ruling: No appearance at the October 28, 2015 hearing is required.

The case having previously been dismissed, the Motion is dismissed as moot.

Tentative Ruling: Because less than 28 days' notice of the hearing was given, the Trustee's Motion to Dismiss is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further.

The court's decision is to dismiss the case.

First, the Debtor did not appear at the first meeting of creditors set for October 1, 2015, as required pursuant to 11 U.S.C. § 343.

Second, the Debtor did not provide the Trustee with a copy of the tax return for the most recent tax year a return was filed. The Debtor has not complied with 11 U.S.C. § 521(e)(2)(A)(1).

Third, the Debtor did not provide the Trustee with copies of payment advices or other evidence of income received within the 60-day period prior to the filing of the petition. The Debtor has not complied with 11 U.S.C. § 521(a)(1)(B)(iv).

Fourth, the Debtor filed as blank forms Schedules A through J, the Statement of Financial Affairs, the Means Test (Form 22C), and the Chapter 13 plan. The Debtor has failed to prosecute this case causing unreasonable delay that is prejudicial to creditors pursuant 11 U.S.C. § 1307(c)(1).

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.